

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #16	CCRB Case #: 202103980	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/02/2021 6:50 AM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 1/2/2023	EO SOL 1/2/2023	
Date/Time CV Reported Mon, 07/05/2021 8:09 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 07/05/2021 8:09 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Michael Welsome	01954	958168	WARRSEC
2. DT3 Salvatore Melore	04826	952004	WARRSEC
3. DT3 Gerard Tweedy	03963	954381	WARRSEC
4. Thomas Mcaleer		956902	

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Michael Welsome	Abuse: Detective Michael Welsome entered § 87(2)(b), in Brooklyn.	§ 87(2)(b)
B.DT3 Salvatore Melore	Abuse: Detective Salvatore Melore entered § 87(2)(b), in Brooklyn.	§ 87(2)(b)
C.DT3 Gerard Tweedy	Abuse: Detective Gerard Tweedy entered § 87(2)(b), in Brooklyn.	§ 87(2)(b)
D. Thomas Mcaleer	Abuse: Detective Thomas Mcaleer entered § 87(2)(b), in Brooklyn.	§ 87(2)(b)
E.DT3 Salvatore Melore	Abuse: Detective Salvatore Melore refused to provide his name to § 87(2)(b)	§ 87(2)(b)
F.DT3 Salvatore Melore	Abuse: Detective Salvatore Melore refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
G.DT3 Gerard Tweedy	Abuse: Detective Gerard Tweedy refused to provide his name to § 87(2)(b)	§ 87(2)(b)
H.DT3 Gerard Tweedy	Abuse: Detective Gerard Tweedy refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
I. Thomas Mcaleer	Abuse: Detective Thomas Mcaleer refused to provide his name to § 87(2)(b)	§ 87(2)(b)
J. Thomas Mcaleer	Abuse: Detective Thomas Mcaleer refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
K.DT3 Michael Welsome	Abuse: Detective Michael Welsome searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

On July 5th, 2021, § 87(2)(b) filed the following complaint with the CCRB online. On July 2nd, 2021, at approximately 6:50 AM, Det. Michael Welsome, Det. Thomas Mcaleer, Det. Salvatore Melore, and Det. Gerard Tweedy, all of Warrants Section, arrived at § 87(2)(b)'s apartment located at § 87(2)(b) in Brooklyn. Det. Welsome knocked on the door and § 87(2)(b) opened it. Det. Welsome showed § 87(2)(b) a warrant for an individual named § 87(2)(b) and then entered, followed by Det. Melore (**Allegation A and B: Abuse of Authority**, § 87(2)(g)). Det. Tweedy and Det. Mcaleer allegedly entered immediately after (**Allegation C: Abuse of Authority**, § 87(2)(g)) and **Allegation D: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) allegedly asked all the officers for their names and shield numbers and only Det. Welsome provided this information (**Allegations E-H: Abuse of Authority**, § 87(2)(g)). (Allegations I and J: Abuse of Authority, § 87(2)(g)). Det. Welsome proceeded further into the apartment and searched § 87(2)(b)'s bedroom (**Allegation K: Abuse of Authority**, § 87(2)(g)). Det. Welsome told § 87(2)(b) she had an ICARD, and she agreed to go with the officers to the stationhouse. § 87(2)(b) was arrested and charged with assault in regard to the ICARD (**BR 01**).

This case was originally assigned to former Investigator Alex Guinn and upon their departure from the CCRB the case was reassigned to Investigator McKenzie Dean on December 21st, 2021.

BWC footage was not received because Warrants Section was not equipped with cameras at the time of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Michael Welsome entered § 87(2)(b) **in Brooklyn.**

Allegation (B) Abuse of Authority: Detective Salvatore Melore entered § 87(2)(b) **in Brooklyn.**

Allegation (C) Abuse of Authority: Detective Gerard Tweedy entered § 87(2)(b) **in Brooklyn.**

Allegation (K) Abuse of Authority: Detective Michael Welsome searched § 87(2)(b) **in Brooklyn.**

It is undisputed that Det. Welsome, Det. Melore, Det. Mcaleer, and Det. Tweedy went to § 87(2)(b)'s apartment building to apprehend her in regard to an active ICARD (with probable cause to arrest) investigation (**BR 01**), which was assigned to Det. Welsome, § 87(2)(b) and her three children: § 87(2)(b) (§ 87(2)(b) years old), § 87(2)(b) (§ 87(2)(b) years old), and § 87(2)(b) (§ 87(2)(b) years old) were home at the time. Upon the officers' arrival, Det. Welsome knocked on § 87(2)(b)'s door and told her he had an ICARD for her and a warrant for an individual named § 87(2)(b). § 87(2)(b) opened her door and agreed to go with the officers. Det. Welsome and Det. Melore entered § 87(2)(b)'s apartment. Det. Welsome proceeded further inside the apartment as Det. Melore remained by the door. § 87(2)(b) got dressed and the officers brought her to the 67th Precinct stationhouse.

§ 87(2)(b) stated (**BR 09**) that when she opened the door, Det. Welsome told her, "Warrant, I'm coming in." § 87(2)(b) told Det. Welsome he was not coming in and asked about the warrant. Det. Welsome said the warrant was for § 87(2)(b) and showed it to § 87(2)(b). § 87(2)(b) informed Det. Welsome that § 87(2)(b) did not live at her address. Det. Welsome said he still needed to come inside because sometimes people hide inside apartments. § 87(2)(b) told Det. Welsome that he did not need to come inside because she was not § 87(2)(b). Det. Welsome told § 87(2)(b) that he still needed to search her apartment. § 87(2)(b) had only partially opened her door and she had her hand on it, when Det. Welsome stated he was "coming in anyways." Det. Welsome pushed the door further open and entered the apartment. Det. Melore, Det. Mcaleer, and Det. Tweedy entered behind Det. Welsome.

§ 87(2)(b)'s statement was consistent with § 87(2)(b)'s account of how Det. Welsome pushed the door further open, and the other officers followed in behind him. Det. Welsome went into § 87(2)(b)'s bedroom, § 87(2)(b)'s bedroom, and § 87(2)(b) and § 87(2)(b)'s shared bedroom.

§ 87(2)(b) and § 87(2)(b) did not see how the officers entered, but they saw Det. Melore, Det. Welsome, Det. Mcaleer, and Det. Tweedy standing inside the apartment and Det. Welsome walking throughout the apartment, including into § 87(2)(b)'s bedroom, § 87(2)(b) and § 87(2)(b)'s bedroom, and § 87(2)(b)'s bedroom.

Det. Welsome stated (**BR 07**) that during his investigation into § 87(2)(b) he found an active bench warrant from 2018 for an individual named § 87(2)(b) which listed § 87(2)(b)'s building address, without a specific apartment number. Department databases search results confirmed § 87(2)(b) was associated with § 87(2)(b) but did not yield a specific apartment number. Det. Welsome believed § 87(2)(b) may have been at § 87(2)(b)'s apartment during the incident because the warrant for § 87(2)(b) listed the apartment building address. There was no other reason Det. Welsome believed this. Det. Welsome was not aware of anything that tied § 87(2)(b) to § 87(2)(b) specifically.

Det. Welsome stated that before § 87(2)(b) opened the door, he told her she had an ICARD and there was a warrant for § 87(2)(b) associated with § 87(2)(b)'s address. Det. Welsome believed he told § 87(2)(b) the warrant was for the building and not for her apartment, however he did not recall this for certain. Det. Welsome stated § 87(2)(b) asked to see the warrant and he showed it to her. Det. Welsome stated that the purpose of bringing a copy of the warrant to § 87(2)(b)'s residence was to ask § 87(2)(b) about § 87(2)(b). Det. Melore stated (**BR 12**) he was not aware of any active warrants associated with § 87(2)(b)'s building at the time of the incident and he had no recollection of any conversation between officers and § 87(2)(b) about a warrant.

Det. Welsome and Det. Melore stated that when § 87(2)(b) agreed to go with the officers, she asked to retrieve some belongings inside. Both officers stated Det. Welsome asked if he could escort § 87(2)(b) inside to retrieve her belongings inside for officer safety reasons, to which she agreed. Det. Welsome stated he specifically said to § 87(2)(b) "Okay, just for officer safety, I'd like to stay with you," to which she responded, "Okay." Det. Welsome stated he did not tell § 87(2)(b) that she needed to let him come inside and he did not recall § 87(2)(b) telling him she did not want him to enter. Det. Welsome did not recall any additional conversation with § 87(2)(b) about him going into the apartment. Det. Welsome denied pushing § 87(2)(b)'s door open and entering her apartment. Det. Melore also stated that this did not occur.

Det. Welsome did not recall if any of the other officers entered the apartment during the incident. Det. Melore stated he followed Det. Welsome into § 87(2)(b)'s apartment and said he was not aware of any other officers entering after him. Det. Melore stated that he entered the apartment because he believed § 87(2)(b) had consented to all the officers entering. Det. Melore did not know if Det. Welsome requested § 87(2)(b)'s consent to enter for only himself or if he requested consent for all the officers, however, Det. Melore believed they all had permission to enter because § 87(2)(b) was compliant and allowed Det. Welsome to enter.

Det. Welsome and Det. Melore both stated § 87(2)(b) did not tell them not to come any further into the apartment after they entered. Det. Welsome did not recall telling § 87(2)(b) that she could tell him to leave her apartment. Det. Melore did not recall if any officers informed § 87(2)(b) that she could ask them to leave once they were inside. Det. Welsome stated he did not document § 87(2)(b)'s consent. Det. Welsome did not recall requesting § 87(2)(b)'s consent to search the apartment. Det. Welsome and Det. Melore both stated that consent to search paperwork was not completed, and neither of them were aware of § 87(2)(b) signing any documents during the incident.

Det. Welsome stated he walked with § 87(2)(b) into her bedroom, and she grabbed her belongings. Det. Welsome did not recall walking into any other rooms or opening any doors but

stated that if a room had an open door, he looked inside it. Det. Welsome specifically recalled looking into one bedroom, but he did not go inside. As Det. Welsome walked through the apartment, he looked around to make sure § 87(2)(b) was not inside. Det. Melore stated Det. Welsome followed § 87(2)(b) around her apartment as she went into different rooms. Det. Melore never lost sight of Det. Welsome as he did this because when § 87(2)(b) entered any rooms, Det. Welsome stayed by the doorway. Det. Melore did not recall Det. Welsome going into any bedrooms or opening any doors. Det. Melore did not recall Det. Welsome crossing the threshold of any doorways inside the apartment.

Det. Tweedy (BR 11), Det. Melore, and Det. Welsome consistently stated Det. Tweedy was not at § 87(2)(b)'s apartment door, but instead remained outside the building to watch the fire escape in case she tried to flee. Det. Tweedy stated he had no knowledge of officers entering or searching § 87(2)(b)'s apartment. Det. Tweedy was not aware of any conversation between officers and § 87(2)(b) about a warrant or about consent to enter or search her apartment.

The CCRB was unable to interview Det. Mcaleer because he retired during the investigation.

In People v. Gonzalez, 39 N.Y.2d 122 (BR 14), the court held that consent to search is voluntary when it is a true act of the will, an unequivocal product of an essentially free and unconstrained choice. Voluntariness is incompatible with official coercion, actual or implicit, overt or subtle.

NYC Administrative Code 14-173 (BR 10) states officers must articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of a search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explaining that such search will not be conducted if such person refuses to provide consent to such search. Officers must document the time, location, and date of such search, and the apparent race/ethnicity, gender, and age of the person who was the subject of such search, and such officer's name, precinct, and shield number.

§ 87(2)(g)

§ 87(2)(g)

Despite this, even in crediting Det. Welsome's and Det. Melore's accounts of this conversation, the officers failed to inform § 87(2)(b) that she could refuse consent, and they did not document her consent. As a result, § 87(2)(b)'s consent was invalid according to the guidelines set within NYC Administrative Code 14-173.

§ 87(2)(g) Det. Welsome acknowledged that aside from the warrant for § 87(2)(b) which listed an address of § 87(2)(b)'s entire building, he had no reason to believe § 87(2)(b) was at § 87(2)(b)'s apartment at the time of the incident. Despite not having a reason to believe § 87(2)(b) was inside the apartment, Det. Welsome emphasized the existence of the warrant from the onset of his interaction with § 87(2)(b) claimed that the warrant was associated with § 87(2)(b)'s address, and presented the warrant to § 87(2)(b) immediately prior to obtaining her consent to enter, § 87(2)(g)

Moreover, despite conflicting civilian and officer statements about which rooms Det. Welsome went into once he entered § 87(2)(b)'s apartment, he acknowledged proceeding further inside to look into rooms with open doors, going into § 87(2)(b)'s bedroom, and looking around for § 87(2)(b) § 87(2)(g) Det. Welsome did not recall requesting § 87(2)(b)'s consent to search at any point, § 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: Detective Salvatore Melore refused to provide his name to

§ 87(2)(b)

Allegation (F) Abuse of Authority: Detective Salvatore Melore refused to provide his shield number to § 87(2)(b)

Allegation (G) Abuse of Authority: Detective Gerard Tweedy refused to provide his name to

§ 87(2)(b)

Allegation (H) Abuse of Authority: Detective Gerard Tweedy refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after the officers entered, she said, “I need all ya’ll names and badge numbers.” Det. Welsome provided this information, but Det. Melore, Det. Tweedy, and Det. Mcaleer did not respond to this request.

§ 87(2)(b) s account was consistent with § 87(2)(b) s account regarding who she asked for names and shield numbers and which officers provided this information.

§ 87(2)(b) stated that § 87(2)(b) asked Det. Welsome for his name and shield number, which he provided to her. § 87(2)(b) stated § 87(2)(b) did not ask the other officers for their names and shield numbers, and they did not provide this information at any point.

§ 87(2)(b) stated that he did not recall if § 87(2)(b) asked all the officers for their names and shield numbers, but he believed that she did. None of the officers provided this information to § 87(2)(b)

Det. Welsome, Det. Melore, and Det. Tweedy did not recall § 87(2)(b) requesting shield numbers or names from any of the officers. Det. Welsome did not recall if any of the officers ever provided this information to her. Det. Melore and Det. Tweedy both denied refusing to provide their names or shield numbers to § 87(2)(b) and stated they did not witness any other officers do this.

The CCRB was unable to interview Det. Mcaleer because he retired during the investigation.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Detective Thomas Mcaleer entered § 87(2)(b) **in Brooklyn.**

Allegation (I) Abuse of Authority: Detective Thomas Mcaleer refused to provide his name to

§ 87(2)(b)

Allegation (J) Abuse of Authority: Detective Thomas Mcaleer refused to provide his shield number to § 87(2)(b)

A request to the NYPD Department Advocates Office for dates of service for Det. Mcaleer (BR 13) showed that his resignation was pending as of October 24, 2021, and on June 9, 2022, it was confirmed that Det. Mcaleer retired (BR 15).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two CCRB complaints and has not been named as a victim in any allegations (BR 02).

- § 87(2)(b) [REDACTED]
- [REDACTED]
- Det. Welsome has been a member-of-service for seven years and this is the first CCRB complaint to which he has been a subject.
- Det. Melore has been a member of service for 10 years and has been a subject in eight CCRB complaints and 14 allegations.
 - 201607556 involved substantiated allegations of refusal to provide name/shield number and stop against Det. Melore. The Board recommended Command Discipline B and the NYPD imposed Command Discipline A.
 - § 87(2)(g) [REDACTED]
- Det. Tweedy has been a member of service for nine years and has been a subject in one CCRB complaint and three allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
- Det. Mcaleer's tenure was unavailable because he is no longer an active member of service. Det. Mcaleer has been a subject in four CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g) [REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 13, 2022, a Notice of Claim has not been filed in regard to this incident (**BR 08**).
- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Squad: _____ 16 _____

Investigator:	_____ Inv. Dean Signature	_____ Inv. Dean Print Title & Name	_____ 7/20/22 Date
Squad Leader:	_____ Patrick Yu Signature	_____ IM Patrick Yu Print Title & Name	_____ 07/21/2022 Date

Reviewer:

Signature

Print Title & Name

Date